

## WEATHER MODIFICATION REGULATION

## CHAPTER 808

## H. B. No. 2115

An Act relating to regulation of weather modification.

*Be it enacted by the Legislature of the State of Texas:*

Section 1. Section 14.0641, Water Code, as added by Chapter 360, Acts of the 65th Legislature, Regular Session, 1977, is amended<sup>99</sup> to read as follows:

**Sec. 18.0841. Election for Approval of a Permit That Includes Authorization for Hail Suppression**

(a) In this section:

(1) "Target area" means that area described by metes and bounds or other specific bounded description set out in the application for a permit.

(2) "Operational area" means that area that joins the target area which is reasonably necessary to use in order to effectuate the purposes over the target area without affecting the land or land owners in the operational area, but in no event to exceed eight miles from the limits of the target area. The operational area shall be described by metes and bounds or other specific bounded description and shall be set out in the application for a permit. If the application for a permit does not describe the operational area, the commission may designate an area located inside and up to eight miles from the outer limits of the target area described in the application as the operational area of the permit for the purposes of this chapter.

(b) No permit may be issued by the commission before the end of the 30-day period immediately following the first publication of notice and then only in those counties or parts of counties in the target area or operational area in which the majority of the qualified voters voting have approved or have not disapproved the issuance of a permit if an election has been held, or in any county or part of a county in the target area or operational area if no petition for an election has been filed.

(c) Persons eligible to vote in elections held under this section shall include qualified voters in counties or parts of counties included in the target area or operational area. Where the target area or operational area includes only part of a county, an election held under this section may be held only in the election precincts which are included entirely within or are partially included in said areas. All qualified voters in such precincts shall be entitled to vote in these elections.

(d) On written request of at least 25 qualified voters residing in the target area or operational area mentioned in the notice requesting an election accompanied by unsigned petitions, the county clerk of each county within the target area or operational area shall certify and mark for identification petitions for circulation. An application for a petition seeking an election to disapprove the issuance of a permit shall be headed: "Application for Election to Disapprove a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants stating the following: "It is the hope, purpose,

<sup>99</sup>. V.T.C.A. Water Code, § 18.0841.

and intent of the applicants whose signatures appear on this application to see disapproved the issuance of a permit for weather modification including hail suppression." An application for a petition seeking an election to approve the issuance of a permit shall be headed: "Application for Election to Approve a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants as follows: "It is the hope, purpose, and intent of the applicants whose signatures appear on this petition to see approved the issuance of a permit for weather modification including hail suppression." Upon the return to the county clerks of such petitions signed by at least 10 percent of the qualified voters residing in each county within the target area or operational area in the notice requesting an election the commissioners court of each county shall call and hold an election. Notice under Chapter 549, Acts of the 60th Legislature, Regular Session, 1967 (Article 29e, Vernon's Texas Civil Statutes), of the commissioners court meeting to call and hold the election is not required. The date of the election shall be determined by the commissioners court in accordance with this section notwithstanding Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code). The petition must be filed with the clerk of each county within 30 days immediately following the first publication of notice. The election shall be held within 45 days after the petition is received to determine whether or not the qualified voters in the target area or operational area approve the issuance of the permit. Immediately on calling the election, the clerk of each county within the target area or operational area shall notify the executive director of the date of the election. Except as otherwise provided in this chapter, elections shall be held in accordance with the Texas Election Code.

(e) The petition for the election shall read substantially as follows: "The following qualified voters of \_\_\_\_\_ County request the Commissioners Court of \_\_\_\_\_ County to call an election at which the qualified voters shall be asked to vote on the proposition of whether or not they approve of the issuance of a weather modification permit that includes authorization for hail suppression (description of area)." Each qualified voter signing the petition shall give his full name and address and voter registration number. Within five days after receiving a petition under this section, the commissioners court shall have the county clerk of the county check the names on the petition against the voter registration lists of the county and certify to the commissioners court the number of qualified voters signing the petition as reflected by checking the county's voter registration lists. If only a part of a county is included in the target area or operational area, the county clerk shall also certify that those signing the petition reside in an election precinct in the county totally or partially included in the target area or operational area. On certification by the county clerk, the petition shall be filed with the official records of the county and shall be available for public inspection.

(f) A person filing a petition with the county clerk shall deposit with the county clerk an amount of money estimated by the county clerk to be sufficient to cover the costs of the election, to be held by the county clerk until the result of the election to approve or disapprove the issuance of the permit is officially announced. If the result of the election favors the party petitioning for the election, the county clerk shall return the deposit to the person filing the petition or his agent or attorney, but if the result of the election does not favor the party petitioning for the election, the county clerk shall pay the cost and expenses of the election

from the deposit and return the balance of the deposit to the person filing the petition or his agent or attorney.

(g) The ballots for an election under this section shall be printed to provide for voting for or against the proposition: "The issuance of a permit providing for weather modification including authorization for hail suppression and control in (description of area)."

(h) The order calling the election shall provide for the time and place or places for holding the election, the form of the ballots, and the presiding judge for each voting place.

(i) The commissioners court shall publish a copy of the election order in a newspaper of general circulation in the county or in the part of the county within the target area or operational area at least 30 days preceding the day of the election.

(j) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the commissioners court within five days after the election. A copy of the results are to be filed with the county clerk and become a public record.

(k) Within five days after the results are filed, the commissioners court shall declare the results.

(l) The commissioners court of each county holding an election shall send certified copies of the results of the election to the executive director within 24 hours after the results are declared under Subsection (j) of this section.

(m) If a majority of the qualified voters voting in the election precincts any part of which are located in the target area vote against issuance of the permit, no permit may be issued. If a majority of the qualified voters voting in the election precincts any part of which are located within the target area vote in favor of issuance of the permit, the commission may issue the permit as provided in this subchapter, provided, however, if a majority of the qualified voters voting in either of the following areas vote against issuance of the permit, those areas shall be excluded from the coverage of the permit:

(1) any election precinct any part of which is located in the operational area; or

(2) any election precinct located wholly within the target area and contiguous with its outer boundary. If, however, the commission finds that a weather modification and control operation is still feasible, a permit may be issued covering areas in which no election is requested or areas in which the voters give their approval as provided in this section.

(n) If a permit is denied under Subsection (m) of this section, no application for a permit covering all or part of the same target area or operational area so denied may be considered, and no permit under that application may be issued by the commission, for a period of two years following the date of the election nor may an election be held pursuant to this chapter.

(o) If a permit including authorization for hail suppression is to cover only a part of a county, only those qualified voters residing in an election precinct or precincts of the county included in the target area or operational area are eligible to sign a petition and to vote at an election under this section, and in computing the vote, only a majority of those qualified voters residing in such areas and voting in the election shall be necessary to carry the proposition in that county.

(p) No permit shall be issued which provides for or allows the seeding of clouds for hail suppression outside the target area or within those counties or parts of counties located in the operational or target areas which were excluded from the coverage of the permit by virtue of an election under Subsection (m) of this section. However, seeding may be done in those counties or parts of counties located in the operational or target area which were not excluded from the coverage of the permit by virtue of an election under Subsection (m) of this section, provided it is reasonably calculated to take effect only within the target area. This shall not prohibit the observation of cloud and cloud formations.

(q) The department may monitor any program under such conditions as the department deems advisable.

(r) The provisions of this section do not apply to any permits in effect at the time this section becomes law.

(s) Upon petition as provided in this section, the commissioners court of any county outside but adjacent to a county included in the operational area of an existing or proposed permit shall call and hold an election on the proposition of whether or not the qualified voters of the county approve of the issuance of any permit authorizing hail suppression in the county. If the county voters voting in such election disapprove the issuance of permits authorizing hail suppression, the commission may not issue any such permit covering the county until the proposition has been approved by a subsequent election.

Sec. 2. Section 18.090, Water Code, is amended<sup>1</sup> to read as follows:

**Sec. 18.090. Scope of Activity**

(a) Once a permit is issued, the licensee shall confine his activities substantially within the limits of time and area specified in the notice of intention, except to the extent that the limits are modified by the commission. He shall also comply with any terms and conditions of the permit as originally issued or as subsequently modified by the commission.

(b) Failure of a licensee to comply with the provisions of Subsection (a) of this section constitutes a violation of this chapter and subjects the licensee to the sanctions provided in Sections 18.121 and 18.122 of this chapter.

Sec. 3. Section 18.0841, Water Code, is amended by adding<sup>2</sup> Subsections (t) and (u) to read as follows:

(t) If any county or part of a county has disapproved the issuance of a permit at the previous election held under the provisions of this section, that county or part of a county shall not be included in any permit issued by the commission until the voters of that county or part of a county have participated in a subsequent election at which a permit is approved. The applicant for a permit which includes that county or part of a county shall have the burden of petitioning for an election and depositing costs in the manner provided by this section for the original election to approve or disapprove a permit.

(u) The board by rule shall define the term hail suppression as used in this section, using the most current scientifically accepted technological concepts.

1. V.T.C.A. Water Code, § 18.090.

2. V.T.C.A. Water Code, § 18.0841, subsections (t), (u).

Sec. 4. Sections 18.091, 14.0911, and 18.015, Water Code, as amended, are amended<sup>3</sup> to read as follows:

**Sec. 18.091. Records and Reports**

(a) A licensee shall keep a record of each operation conducted under permit, showing:

- (1) the method employed;
- (2) the type of equipment used;
- (3) the kind and amount of each material used;
- (4) the times and places the equipment is operated;
- (5) the name and post-office address of each individual, other than the licensee, who participates or assists in the operation; and
- (6) other information required by the department.

(b) The department shall require written reports covering each operation, whether it is exempt or conducted under a permit.

(c) At the time and in the manner required by the department, a licensee shall submit a written report containing the information described in Subsection (a) of this section.

(d) All information on an operation shall be submitted to the department before it is released to the public.

(e) The reports and records in the custody of the department shall be kept open for public inspection.

**Sec. 18.1211. Permit Violation**

(a) In this section, "permit area" means the area affected and the area of operations covered by a permit.

(b) After notice and hearing, the commission may issue a warning or, if a warning has already been issued, may suspend a permit up to a period of two years if the board finds that a permittee, through carelessness, performed all or any part of a weather modification and control operation outside the boundaries of the permit area. The commission may suspend the permit up to a period of two years without prior issuance of a warning if the permittee, through gross carelessness, performed all or any part of a weather modification and control operation outside the boundaries of a permit area.

(c) A person who violates a provision of a permit is guilty of a Class A misdemeanor.

**Sec. 18.015. Advisory Committees**

The board may establish advisory committees to advise the department and to make recommendations to the department concerning legislation, policies, administration, research, and other matters.

Sec. 5. Section 18.081(a), Water Code, as amended, is amended<sup>4</sup> to read as follows:

(a) The commission, in accordance with the rules and on a finding that the weather modification and control operation as proposed in the permit application will not significantly dissipate the clouds and prevent their natural course of developing rain in the area where the operation is to be conducted to the material detriment of persons or property in that area, and after approved at an election if covered by Section 18.0841 of this code, may issue a weather modification permit to each applicant who:

- (1) holds a valid weather modification license;
- (2) pays the permit fee;

3. V.T.C.A. Water Code, §§ 18.091, 18.1211, 18.015. 4. V.T.C.A. Water Code, § 18.081(a).

(3) publishes a notice of intention and submits proof of publication as required by this chapter; and

(4) furnishes proof of financial responsibility.

Sec. 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 4, 1979: Yeas 122, Nays 7, 1 present, not voting; passed by the Senate on May 25, 1979: Yeas 30, Nays 0.

Approved June 13, 1979.

Effective June 13, 1979.

## PROGRAM TO IDENTIFY INFANTS WITH HIGH RISK OF IMPAIRED HEARING

### CHAPTER 809<sup>5</sup>

#### H. B. No. 2121

An Act relating to the establishment of a pilot program to identify infants at high risk of having impaired hearing.

*Be it enacted by the Legislature of the State of Texas:*

#### Definitions

Section 1. In this Act:

(1) "Board" means the Texas Board of Health.

(2) "Department" means the Texas Department of Health.

#### Program established

Sec. 2. The department shall establish and implement a program in certain public health regions of the state to identify infants at high risk of having impaired hearing and to assure that an infant who is identified as being at high risk of having impaired hearing is tested for hearing loss.

#### Regions served

Sec. 3. The department shall implement the program in two public health regions, as that term is defined by the board. The board shall establish the program in one public health region with a population greater than 2,000,000, according to the most recent federal census, and in one public health region with a population of less than 1,000,000, according to the most recent federal census.

5. Vernon's Ann.Civ.St. art. 4447e—3, §§ 1 to 10.